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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,973	02/07/2002	Sean Mullaney	4110-163US	2386

570 7590 03/24/2004

AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103-7013

EXAMINER
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ABDELWAHED, ALI F

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

**Application No.**

10/068,973

**Applicant(s)**

MULLANEY ET AL.

**Examiner**

Ali Abdelwahed

**Art Unit**

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 16-21 and 24 is/are allowed.
- 6) ☒ Claim(s) 13, 15, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 14 is objected to because of the following informalities:

It is suggested that in:

Claim 14, line 5, delete "vehicles" and insert --vehicle portions--.

Claim 14; insert a period at the end of this claim.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the one vehicle portion" in lines 1-4. There is insufficient antecedent basis for this limitation in the claim.

Claim(s) 23 depends from rejected claim(s) 22 and includes all of the limitations of claim(s) 22 thereby rendering this dependent claim(s) indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,698,044 to Kennedy et al.

Kennedy et al. discloses an articulated toy vehicle comprising: a first vehicle portion (10) having a first hitch (see figs. 2-4) connected thereto; a second vehicle portion (11) having a second hitch (see figs. 2-4) connected thereto; the first hitch comprising a base member (33) and a first connector member (33A, 33B) extending from the base member (see fig. 4), and a housing (24) connected to the first vehicle portion, the housing having a socket (34) for receiving the base member (see figs. 3, 4) and an opening through which the first connector member extends for coupling with the second hitch (see figs. 3, 4); and wherein the second hitch comprises a second connector member with a receptacle into which the first connector member is received (see figs. 2-4).

Claims 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,595,936 to Goode.

Goode discloses an articulated toy vehicle comprising: a first vehicle portion (10) having a first hitch (see fig.1) connected thereto; a second vehicle portion (12) having a

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second hitch (see fig.1) connected thereto; the first hitch comprising a base member (40) and a first connector member (34) extending from the base member (see fig.1), and a housing (32) connected to the first vehicle portion, the housing having a socket for receiving the base member (see figs.1, 2, 5) and an opening through which the first connector member extends for coupling with the second hitch (see figs.1, 2, 5); and wherein the second hitch comprises a second connector member with a receptacle into which the first connector member is received (see figs.1, 2, 5).

### ***Response to Arguments***

In response to Applicant's arguments concerning the objection made to claim 9. The amendments made to claim 9 have been considered and are deemed sufficient to overcome the objection to claim 9.

In response to Applicant's arguments concerning the rejections made to claims 1, 2, and 12. The amendments and Applicant's arguments with respect to claims 1, 2, and 12 have been considered and are deemed sufficient to overcome the rejections made to claims 1, 2, and 12 based on the second paragraph of 35 U.S.C. 112.

In response to Applicant's arguments concerning the election/restriction requirement made to claims 1-12 and 13-24. Examiner has fully considered the arguments concerning the election/restriction requirement made to claims 1-12 and 13-24 and has found them to be persuasive. Therefore, Examiner has withdrawn the

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election/restriction requirements made to claims 1-12 and 13-24, and subsequently replaced non-elected claims 13-24 with elected claims 1-12, hereafter to be prosecuted concurrently. However, upon further consideration, a new ground(s) of rejection is made to claims 13 and 15, in view of U.S. Patents to Kennedy et al. and Goode as stated hereinabove.

### ***Allowable Subject Matter***

Claims 1-12, 16-21, and 24 are allowed.

Claims 22 and 23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA  
03/19/2004



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